
SENATE BILL No. 202

DIGEST OF INTRODUCED BILL

Citations Affected: IC 32-29-1-11.

Synopsis: Equitable subrogation. Provides that a mortgagee may not be denied equitable subrogation solely because the mortgagee is a lender and had constructive notice of the intervening lien, the lien was released, or the mortgagee obtained title insurance.

Effective: July 1, 2003.

Clark

January 9, 2003, read first time and referred to Committee on Insurance and Financial Institutions.

C
o
p
y



First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

SENATE BILL No. 202

A BILL FOR AN ACT to amend the Indiana Code concerning property.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 32-29-1-11, AS ADDED BY P.L.2-2002,
2 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2003]: Sec. 11. (a) This chapter does not limit:
4 (1) the right to assign, mortgage, or pledge the rents and profits
5 arising from real estate;
6 (2) the right of an assignee, a mortgagee, or a pledgee to collect
7 rents and profits for application in accordance with an
8 assignment, a mortgage, or a pledge; or
9 (3) the power of a court of equity to appoint a receiver to take
10 charge of real estate to collect rents and profits for application in
11 accordance with an assignment, a mortgage, or a pledge.
12 (b) A person may enforce an assignment, a mortgage, or a pledge of
13 rents and profits arising from real property:
14 (1) whether the person has or does not have possession of the real
15 estate; and
16 (2) regardless of the:
17 (A) adequacy of the security; or



C
o
p
y

- 1 (B) solvency of the assignor, mortgagor, or pledgor.
2 (c) If a person:
3 (1) enforces an assignment, a mortgage, or a pledge of rents and
4 profits arising from real estate; and
5 (2) does not have possession of the real estate;
6 the obligations of a mortgagee in possession of real estate may not be
7 imposed on the holder of the assignment, mortgage, or pledge.
8 **(d) Except for those instances involving liens defined in**
9 **IC 32-28-3-1, a mortgagee seeking equitable subrogation with**
10 **respect to a lien may not be denied equitable subrogation solely**
11 **because:**
12 **(1) the mortgagee:**
13 **(A) is engaged in the business of lending; and**
14 **(B) had constructive notice of the intervening lien over**
15 **which the mortgagee seeks to assert priority;**
16 **(2) the lien for which the mortgagee seeks to be subrogated**
17 **was released; or**
18 **(3) the mortgagee obtained a title insurance policy.**

C
O
P
Y